

(B5 cont'd)

means for connecting said first member to an object; and
means for locking said first member and said second member together.

(B6 D5)

10. (Unamended) A mounting device according to claim 9, wherein said means for connecting is a bayonet coupling.

(B7 D5)

12. (Unamended) A mounting device according to claim 9, further comprising means for fastening said second member to a tree.

REMARKS

Claims 1, 3-7, 9, 10, and 12 are presented for consideration, with Claims 1, 6, and 9 being independent.

The independent claims have been amended to further distinguish Applicant's invention from the cited art.

Initially, Applicant notes with appreciation that the finality of the previous Office Action of June 3, 2002, has been withdrawn. It is also noted that the rejection of the claims under 35 U.S.C. § 112, second paragraph, as set forth in the previous Office Action, has been withdrawn.

Claims 1, 4, 6, 7, 8, 9 and 12 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,939,004, to Fuss. In addition, Claims 3 and 10 stand rejected under 35 U.S.C. § 103 as allegedly being obvious over the Fuss patent in view of U.S. Patent No. 2,915,270, to Gladsden. In addition, Claim 5 has been rejected as allegedly being obvious over the Fuss patent in view of the Aldridge patent, U.S. Patent No. 5,071,098. These rejections are respectfully traversed.

Applicant's invention as set forth in Claim 1 relates to a treetop mounting device comprised of an elongated housing, an elongated support slidably received within the elongated housing, and a fitting head disposed at a distal end of the elongated support.

In addition, a fastener is adapted to secure the elongated housing to a tree, and a lock secures the sliding support in the elongated housing at a desired position.

Claim 6 is directed to a treetop mounting device that includes a mounting with an elongated housing and a sliding rod slidable within the elongated housing, and a fastener adapted to attach the elongated housing to a tree. In addition, a locking mechanism locks the sliding rod in the elongated housing.

Claim 9 relates to a treetop mounting device that include telescoping means comprising an elongated first member slidably received in an elongated second member, and means for connecting the first member to an object. Also provided is means for locking the first member and the second member together.

As will be appreciated, the claims have been amended to include an “elongated” housing (or an “elongated” second member) to better define Applicant’s treetop mounting device.

The patent to Fuss relates to a Christmas tree ornament for attachment to a conventional Christmas tree. With reference to Figure 2, the ornament includes a telescoping rod 18 and a tubular member, or housing, 24. A spring clamp 22 secures the rod to the tree, and a clamp 26 secures the housing to the tree.

The Office Action reads the Fuss patent to provide a clamping member 20, as a housing, and screw 21 as a lock for securing the rod 18 within the “housing” 20. It is respectfully submitted, however, that this is not a fair reading of the Fuss patent. Clamping member 20 does not house the telescoping rod 18 - - tubular member 24 serves this function. The clamping member 20 is provided to secure the rod 18, via spring clamp 22, to the tree. In any event, the independent claims have been amended to recite an “elongated” housing (or second member) in order to further distinguish the claimed invention from the Fuss patent.

Accordingly, reconsideration and withdrawal of the rejection of Claims 1, 4, 6, 7, 9, and 12 under 35 U.S.C. § 102(b) is respectfully requested.

The Gladsden patent relates to an adjustable support and was cited for its teaching of a bayonet coupling attachment.

The patent to Aldridge relates to a Christmas tree ornament shelf and was cited for its teaching of a hook and loop fastener.

These secondary citations, however, fail to compensate for the deficiencies in the Fuss patent as discussed above with respect to Applicant's independent claims.

Therefore, without conceding the propriety of combining Fuss with either Gladsden or Aldridge, such combinations still fail to teach or suggest Applicant's claimed invention.

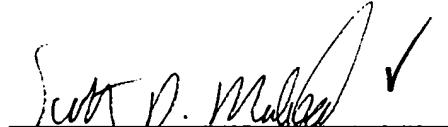
Therefore, reconsideration and withdrawal of the rejections of Claims 3, 5, and 10 under 35 U.S.C. § 103 are respectfully requested.

Accordingly, it is submitted that Applicant's invention as set forth in independent Claims 1, 6, and 9 is patentable over the cited art. In addition, dependent Claims 3-5, 7, 10, and 12 set forth additional features of Applicant's invention. Independent consideration of the dependent claims is respectfully requested.

Due consideration and prompt passage to issue are respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Attorney for Applicant
Scott D. Malpede
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
SDM/lmj



Application No. 09/862,585
Attorney Dkt. No. 01907.00P124

APPENDIX

VERSION SHOWING CHANGES MADE TO CLAIMS

RECEIVED
SEP 03 2002
GROUP 3600

1. (Twice Amended) A tree-top mounting device, comprising:
[a] an elongated housing;
an elongated support slidably received within said elongated housing;
a fitting head disposed at a distal end of said elongated support;
a fastener adapted to secure said elongated housing to a tree; and
a lock to secure said sliding support in said elongated housing at a desired position.
5. (Amended) A device according to claim 1, wherein said fastener includes a hook and loop fastener secured to said elongated housing.
6. (Twice Amended) A tree-top mounting device, comprising:
a mount including [a] an elongated housing and a sliding rod
slidable within said elongated housing, said sliding rod having a distal end adapted to receive an ornament;
a fastener adapted to attach said elongated housing to a tree; and
a locking mechanism for locking said sliding rod in said elongated housing.
9. (Twice Amended) A tree-top mounting device comprising:



Application No. 09/862,585
Attorney Dkt. No. 01907.00P124

telescoping means comprising [a] an elongated first member slidably received in [a] an elongated second member;
means for connecting said first member to an object; and
means for locking said first member and said second member together.

DC_MAIN 106619 v 1

RECEIVED
SEP 03 2002
GROUP 3600